

RELOCATION ASSISTANCE

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It is a pleasure to have this opportunity to talk about right-of-way with representatives of the construction industry, engineers, road administrators, county officials, and others who have a vital interest in highway construction.

The Federal-Aid Highway Act of 1968 became law on August 23 of last year. This Act, among other things, provided for greatly expanded payments and services to persons who are displaced from their homes and businesses by reason of highway construction. This new law is not well understood and at various times we have all criticized it. But, before we condemn it too harshly, it behooves us all to understand what we are criticizing and why it exists.

Since man began banding together in self-government, in those countries where private ownership of property is permitted, governments have been acquiring private property of individuals for the use and benefit of the public as a whole. Here in this country our Constitution provides that no authority can deprive a man of his private property without just compensation. Most of the courts have ruled, over a period of years, that just compensation is the fair market value of the property taken plus certain damages to the remainder. The ruling in this country is largely an outgrowth of railroad acquisitions which provided no fringe benefits such as moving costs, loss of business, utility hookups, mortgage pay-off penalties, crop losses, interest differentials and other items of this nature.

Three primary factors brought about the need for a change in this philosophy. First, the location of the highways: modern highways are built according to certain design criteria which almost dictate their location. Therefore it is sometimes difficult to avoid specific areas or installations when designing a modern highway.

Second, the nature of property ownership: most of our modern homes are financed over a period of many years. A person may have a very favorable financing rate, which has several years to run, at the time we take it. To force him to renegotiate another loan at a higher interest rate is unfair. Our modern homes also have many items which are made for the house, such as carpeting, drapes, dishwashers and the like, which cannot be readily moved to a different home.

And finally, in 1956 the National Defense and Interstate Highway Act made more money available to the States for the highway program and was actually the beginning of the Interstate program as we see it today. Up until that time Kentucky had been able to spend all available federal funds for design and construction. No effort had been made to bill the federal government for reimbursement of planning and right-of-way costs. Furthermore, about the same time the general public became aware of the fact that the acquisition of right-of-way for highway purposes was big business. Where in the past the Department had been able to acquire right-of-way either by gift or by negotiation, without detailed and exacting appraisals (in those days horse-trading), this situation no longer exists.

With these two happenings, the Kentucky Department of Highways found it necessary to appraise the fair market value of properties as accurately and professionally as possible, and to negotiate more with the property owner than ever before. From that point on, as we all know, the right-of-way acquisition program grew like Topsy.

In 1962, a federal law was passed which provided for federal participation in the payment of moving expenses, up to \$200 in the case of a residence and \$3,000 in the case of businesses. At this time, Kentucky had no State law which would provide for the payment of these amounts. In 1964 the State Legislature passed a law which permitted payment of moving expenses in accord with the federal law. Regulations were filed with the Legislative Research Commission, providing for payment of moving expenses only on federal projects. A short time later, these regulations were changed to provide payment on all projects, both State and federal.

In 1966, the Kentucky Legislature made money available to all State agencies for the purpose of paying moving expenses. It was changes and trends such as these that changed the philosophy of the whole country toward the treatment of persons displaced from their homes by highway construction.

During the period of 1964 to 1968, Congressmen continued to receive more and more complaints to the effect that displaced persons were being treated unfairly, were being evicted with no place to go, and were being forced to undergo ruinous financial hardships. All of this was being done in the name of progress and was happening, in many cases, to the people who could least afford it, small businesses, lower income groups, retired people, etc.

In 1967, a bill providing expanded relocation payments was introduced in Congress. However, it was hastily prepared and presented, consequently it failed to pass. In 1968, Senator Muskie introduced a bill which would provide for many additional payments. This bill also failed to pass, but the pressure on Congress became so great that another bill concerning relocation assistance, in most respects similar to the Muskie Bill, was introduced and passed. It emerged as Chapter 5 of the "1968 Federal-Aid Highway Act."

With this background, I would like to discuss the highlights of the 1968 Highway Act as it pertains to relocation assistance. I will start with moving costs. The 1968 law raises the limit of actual moving expenses from \$200 for residences and \$3,000 for businesses to \$25,000 on all moves. In lieu of accepting the reimbursement of actual moving expenses, the occupant of a residence or mobile home may elect payment for moving expenses on a fixed-rate schedule and move himself. The maximum payment in this case is \$200 plus a \$100 dislocation allowance. In the case of businesses and farm operations, if the taking is such that they are forced out of business, they may elect (instead of actual moving expenses) to receive an amount equal to one year's annual net earnings, up to a maximum of \$5,000.

A new item included in the 1968 law is replacement housing. In addition to moving costs and other payments, a displaced owner-occupant may be entitled to a payment, not to exceed \$5,000, which represents the difference between the amount which we paid the property owner for his home and the selling price of an otherwise comparable house, currently on the market, which meets certain standards set out by the Bureau of Public Roads.

In the case of tenants, they are entitled to the same consideration, except payment is limited to a maximum of \$1,500, which represents the difference for a two-year period in the rent he was paying for the property taken and the amount he must pay for an otherwise comparable dwelling which meets Bureau of Public Roads' standards.

A property owner is now also entitled to reimbursement for any expenses incidental to the transfer of his property to the State. Examples of these expenses are mortgage prepayment penalties, recording fees, pro-rata share of taxes, and other similar items.

I mentioned that the house to be occupied by the displacee must meet certain standards before the occupant would be eligible to receive these additional replacement housing payments. Before these payments are made, the displacee must--within one year from the time we require

him to move--purchase or rent and occupy a dwelling which meets these standards:

1. The house must meet the requirements of local codes, if any.
2. It must have an adequate, potable water supply.
3. It must have kitchen facilities with hot and cold running water.
4. It must have a heating system that is capable of maintaining a 70° temperature, regardless of outside weather.
5. It must have a ventilated and lighted bathroom.
6. It must have provisions for artificial lighting.
7. It must be structurally sound.
8. It must have two means of egress at ground level.
9. It must have floor space on the basis of 150 square feet for the first occupant and 100 feet for each additional occupant.

When these standards are applied literally, you can see that possibly many of us live in homes which are not decent, safe and sanitary. Under certain conditions, some of these standards have been waived by the Bureau of Public Roads so that payments could be made.

Some other requirements of this new law are: that, effective August 23, 1968, the Commissioner of Highways was required to sign assurances to the Bureau of Public Roads before any project was programmed; that the services and payments as set out in the law would be provided to the extent that our State law would permit; that housing would be available to displacees within a reasonable time before possession of the property was required; and, that no person would be required to vacate his premises without, at least, a 90-day written notice.

By July 1, 1970, the State must be able to comply with the Federal-Aid Highway Act of 1968 in its entirety; otherwise, projects cannot be programmed. The new law requires the State to prepare and submit relocation plans for approval to the Bureau of Public Roads before a project can be programmed in the acquisition or construction stage.

At the time corridor planning takes place, an evaluation must be made of the individuals, families and businesses to be displaced, and of the housing available in the area. A statement must be made as to whether the displacees can or cannot be relocated on each particular corridor under consideration.

After the final determination of the corridor to be used, but before a project can be programmed in the acquisition stage, a second and more detailed relocation plan must be prepared, showing an outline of the relocation problems to be encountered, and the proposed solution to these problems. A statement that the persons to be displaced can be relocated into decent, safe, and sanitary housing within the allocated time must be made.

Kentucky is now complying with the law, but payments are being made from a trust fund, using 100% federal funds which have been set up for this purpose. The reason for this system is the fact that our State law does not now permit us to make payments in excess of \$200 for a residential move and \$3,000 for a business move with State funds. We are now in the process of making payments to persons who were displaced after August 23 last year. We expect that next year such payments for Kentucky will total slightly over one million dollars.

There has been much discussion as to what effect, either adverse or favorable, this new law would have on highway construction. To date, we have about four projects on which design is being reconsidered because our ability to relocate the displacees to decent, safe and sanitary housing is questionable. In the programming stage, unless it can be shown that the people can be relocated the project is stopped. Even in the acquisition stage, if the relocation plan fails, the project cannot be cleared. This results in postponement of contract letting dates. For example: recently in West Virginia a group that was opposed to the construction of a particular section of Interstate went to court with charges that the State did not have adequate relocation plans. The fact was that the State did have a plan, and a good one; nevertheless, the project was delayed for some time.

At least one State has asked its Legislature for a law which would permit the highway department to construct adequate housing to relocate displacees on land bought for that purpose, so they could go ahead with their road building.

In addition to increased payments, services to the displacees such as assistance in locating decent, safe and sanitary housing have been greatly expanded. These, generally, are the highlights of the Relocation Assistance Program's portion of the Federal-Aid Highway Act of 1968.

I would now like to discuss briefly with you what could be the future of the Relocation Assistance Program. The first bill introduced in the Senate in January 1969 was a new uniform Relocation Assistance Act, introduced by Senator Muskie. I understand that his bill passed the Senate on October 27, 1969, and was sent on to the House for consideration. I do not know its exact status at this point, but some of the things which may show up in a new law are:

1. Payments would remain approximately the same as those under the 1968 law.
2. Uniform payments for all agencies using federal funds would be required.
3. It might provide for payment of attorney fees in condemnation cases; this could, indeed, have a far-reaching effect on the acquisition of right-of-way.
4. Damages to businesses because of rerouting of traffic might become a compensable item.
5. It might authorize payment for loss of favorable interest rate. This is a very real problem to a person who has a 4 to 6% loan with 12 to 15 years to go, who is now forced to renegotiate a loan at 8 to 10%.
6. A new law might authorize State highway departments to construct homes on land acquired for that purpose.
7. It might provide for payment of expenses in locating replacement housing.

To summarize, the Kentucky Department of Highways is now using 100% federal money, which it cannot do after June 30, 1970. By that time, Kentucky must pass some sort of enabling legislation if we are to continue to make payments as authorized by the federal government. It must decide whether to make the same type payments on State financed projects. It is, indeed, difficult to explain to a property owner on one side of the road that you can only pay him \$3,000 for moving his business, while a similar business on the opposite side of the road on a federal-aid project could be paid the full cost of moving his business.

The Department started making the additive payments, supplementary housing, increased moving costs, dislocation allowances, etc., from the Federal Trust Fund on July 1, 1969.

Since that time, the Kentucky citizens who were displaced by highway construction have been paid approximately \$300,000, in addition to the amounts received as compensation for their property. In most cases where these supplementary payments have been administered properly, negotiations have been enhanced and the number of condemnation actions reduced.

This new philosophy toward property owners and tenants who must give up all or a part of their property may cause many headaches and disruptions to program schedulers, elected officials, highway employees and others, but remember, when these delays and frustrations almost drive you to desperation, that right-of-way is acquired in the greater part under a rule which predates the Constitution, Statutes, court rulings and PPM's. This rule is The Golden Rule: "Do unto others as you would have them do unto you."